Annex

Letter dated 6 November 2008 from the High Representative for the Common Foreign and Security Policy of the European Union and Secretary-General of the Council of the European Union addressed to the Secretary-General of the United Nations

In accordance with the statement by the President of the Security Council of 12 December 2002 (S/PRST/2002/33), I attach a report on the activities of the European Union Police Mission in Bosnia and Herzegovina (EUPM). The reporting period is aligned with that covered by the six-monthly review prepared by the Mission, which runs from April to September 2008.

On 19 November 2007, the Council of the European Union adopted the Joint Action 2007/749/CFSP, providing for a second extension of the mandate of EUPM until 31 December 2009, following the invitation of the Bosnia and Herzegovina authorities to continue its activities.

Although considerable achievements have been made since the initial launch of EUPM on 1 January 2003, effective results in the fight against organized crime and in the establishment of key State law enforcement agencies such as the Border Police or the State Investigation and Protection Agency are a long-term endeavour. The recent arrests of prominent figures allegedly involved in organized crime activities represent, however, a significant breakthrough.

The adoption by the Parliamentary Assembly of Bosnia and Herzegovina of two police reform laws on 16 April 2008 paved the way for the signature of the Stabilization and Association Agreement with the European Union (EU) on 16 June 2008. An interim agreement with the European Community, aimed at progressively establishing a common market, entered into force on 1 July 2008. Furthermore, the European Commission released a road map for visa liberalization.

These are important steps in Bosnia and Herzegovina's process of European integration, but more remains to be done. A key issue will be the timely implementation of the two police reform laws. EUPM is actively advising and monitoring the implementation process, and is acting as a facilitator to try to overcome some of the technical difficulties and different views among local stakeholders about the scope of the reform.

Under its current mandate, EUPM will continue to focus on a concrete operational approach, as well as reaching out to the Judiciary and, in particular, to prosecutors. Improved cooperation between police forces and the prosecutors offices is a critical factor in the fight against organized crime and other forms of serious crime. EUPM will also assist the domestic authorities in harmonizing the police legislation and in implementing the integrated border management strategy.

I propose to provide the Security Council with a written update on the progress of EUPM. I would be grateful if you would transmit the enclosed report to the President of the Security Council.

(*Signed*) Javier **Solana**

Enclosure

Report of the High Representative for the Common Foreign and Security Policy of the European Union and Secretary-General of the Council of the European Union on the activities of the European Union Police Mission in Bosnia and Herzegovina covering the period from April to September 2008

Introduction

1. The European Union Police Mission (EUPM) has been the first operation undertaken under the European Security and Defence Policy. It started on 1 January 2003 with an initial three-year mandate. In November 2005, the Council decided to extend EUPM until 31 December 2007. In view of the remaining challenges and the recommendation by the Secretary-General/High Representative, with Joint Action 2007/749/CFSP of 19 November 2007, the Council decided on another extension of EUPM until 31 December 2009 with a refocused mandate. Brigadier General Vincenzo Coppola (Italy) was Head of Mission during the reporting period. His tour of duty will come to an end on 31 October 2008.

2. EUPM aims, through monitoring, mentoring and inspecting, to establish in Bosnia and Herzegovina a sustainable, professional and multi-ethnic police service operating in accordance with European and international standards. It does so through an approach based on three strategic pillars: support to the fight against organized crime, improvement of accountability of local police and support to the implementation of police reform. The Mission benefits from the local political guidance and coordination of the European Union Special Representative. EUPM contributes to the stabilization and association process with the goal to set Bosnia and Herzegovina irreversibly on track for EU membership by strengthening the rule of law and developing a police service that is effective and free from undue political interference.

Staffing and methodology

3. At the end of September 2008, EUPM had 418 staff (167 international police officers, 30 international civilian experts and 221 national staff). All 27 EU Member States contribute to EUPM, as do 6 non-EU countries. The Mission takes due account of Security Council resolution 1325 (2000) on women, peace and security in all its activities, as well as the EU operational paper on practical measures for taking work forward on Security Council resolution 1325 (2000) in the context of the European Security and Defence Policy. Together with the United Nations Development Fund for Women, EUFOR and a local NGO, the Mission will promote gender questions in law enforcement agencies with a project starting in October 2008 and running through 2009.

General situation

4. Bosnia and Herzegovina made progress on its European integration path. Two police reform laws were adopted by the Parliamentary Assembly of Bosnia and

Herzegovina on 16 April 2008. Their adoption opened the way for the signature of the Stabilization and Association Agreement on 16 June. An interim agreement with the European Community, gradually establishing a common market, entered into force on 1 July. In addition, the European Commission released a road map for visa liberalization. The Peace Implementation Council Steering Board welcomed on 25 June positive developments and the progress made by the Bosnia and Herzegovina authorities to deliver on the two conditions and five objectives of the Office of the High Representative-European Union Special Representative transition. The Russian Federation was unable to join in the final Communiqué.

5. These developments contributed to calming the political situation. However, tensions remained and resurfaced by the end of summer. Several concurrent and controversial processes dominate the political landscape: the run-up to the municipal elections, the transition from the Office of the High Representative to a reinforced EU engagement, the debate about constitutional reform and socio-economic consequences of an economic slowdown, and inflationary pressure in combination with the gradual opening of the Bosnia and Herzegovina market to EU competitors. Municipal elections took place on 5 October 2008.

6. Police services in Bosnia and Herzegovina improved their capacity to uphold public peace and order, including in complex situations such as the securing of the commemoration ceremonies in Srebrenica and eastern Bosnia and the aftermath of the arrest of Radovan Karadzic.

7. Mission progress in support of the fight against organized crime continued. Several high-level investigations were opened by the State Investigation and Protection Agency (SIPA) and entity police. The investigation of identity fraud cases in the Citizen Identification Protection System led to the arrest of Republika Srpska police officials in September and could lead to further arrests and indictments during the coming period. On 22 September, the main trial against the leaders of a key organized crime group in Sarajevo was opened.

8. The European Union Coordination Board met regularly and, as of June, with the presence of Bosnia and Herzegovina police officials. Bosnia and Herzegovina police services, supported by EUPM, launched a public awareness campaign on major and organized crime on 19 September.

9. The Ministry of Security, advised by EUPM and European Union Special Representative/Office of the High Representative, started the implementation of the two police reform laws. Implementation is one month behind schedule owing to lacking decisions by the Council of Ministers. The harmonization of police legislation and regulations continued, with the Ministry of Security drafting amendments to bring existing legislation in line with the police reform laws. The police reform laws require this exercise to be completed by November 2008.

10. EUPM advised the Ministry of Security and law enforcement agencies on the implementation of the integrated border management strategy and on the introduction of measures required for visa facilitation and liberalization. Inspections continued and confirmed previous observations that internal control mechanisms are developing to a satisfactory level. Efforts need, however, to be continued.

Achievements during the reporting period

Support to police restructuring and police reform processes

11. EUPM progress in support of police restructuring and the police reform processes has been consistent. The police restructuring efforts included the implementation of the Law on the Directorate for Coordination of Police Bodies and Agencies for Support of Police Structure of Bosnia and Herzegovina and the Law on Independent and Supervisory Bodies of Police Structure of Bosnia and Herzegovina (police reform laws). While EUPM can expect the implementation of those laws to be partially fulfilled by the end of 2008, the full implementation of this first phase, which foresees the completion of staffing and full functioning of the new institutions, will most likely take more time.

12. Having in mind that the legislation regulating the institutional aspects of police matters is not fully harmonized yet, while providing support to the police restructuring process, EUPM continues the "bottom-up approach" to advocate and advise the harmonization and development of the legislation to reform the existing police bodies in the entities, cantons and Brcko District. In this context, EUPM expects to achieve significant progress in the area of police reform by the end of 2009.

13. Nevertheless, while there are goals that can be achieved by the end of 2009, it should be noted that, considering the sometimes challenging political context, delays are likely to occur within the planned time frame.

Police restructuring

Law on the Directorate for Coordination of Police Bodies and Agencies for Support of Police Structure of Bosnia and Herzegovina and Law on Independent and Supervisory Bodies of Police Structure of Bosnia and Herzegovina

14. After their adoption by the Bosnia and Herzegovina Parliamentary Assembly on 16 April 2008, the Law on the Directorate for Coordination of Police Bodies and Agencies for Support of Police Structure of Bosnia and Herzegovina and the Law on Independent and Supervisory Bodies of Police Structure of Bosnia and Herzegovina (police reform laws) came into force on 14 May 2008. With the adoption of the police reform laws, four new coordination and support institutions and three supervisory and oversight bodies will be established at State level.[1]

15. The initiation of the implementation of this process lies with the Bosnia and Herzegovina Parliamentary Assembly and the Bosnia and Herzegovina Ministry of Security.

16. The Bosnia and Herzegovina Ministry of Security established the Selection Commission in charge of selecting the Directors and the Deputy Directors of the Agency for Police Support, the Agency for Education and the Agency for Forensic Examinations and Expertise, as envisaged in the Law on the Directorate for Coordination of Police Bodies and Agencies for Support to Police Structure of Bosnia and Herzegovina. The Selection Commission completed its task and

[1] Directorate for Coordination of Police Bodies of Bosnia and Herzegovina, Agency for Forensic Examinations and Expertise, Agency for Education and Advanced Training of Personnel, Police Support Agency, Independent Board, Board for Complaints of Police Officials, Public Complaint Board.

forwarded the ranking lists to the Minister of Security on 25 July 2008, who should propose it to the Bosnia and Herzegovina Council of Ministers for final appointment. The Minister's proposal has not been sent for further procedure yet.

17. The Bosnia and Herzegovina Parliamentary Assembly appointed the ad hoc Joint Commission for conducting the procedure for appointing the Independent Board and the Public Complaints Board, as envisaged in the Law on Independent and Supervisory Bodies of the Police Structure of Bosnia and Herzegovina. The Independent Board shall select the Director and Deputies of the Directorate for Coordination of the Police Bodies of Bosnia and Herzegovina. Although the establishment of the Commission was done in a timely manner, the ad hoc Commission failed to complete its task within the set legal deadline (14 August 2008). Moreover, the ad hoc Commission asked for EUPM assistance in drafting the necessary decisions and fulfilling its task. EUPM will continue to assist the Commission and further monitor the process.

18. The actual appointments will depend on political will and arrangements between the political parties. Additionally, decisions on the location and establishment dates of the newly established agencies will have to be made by the Bosnia and Herzegovina Council of Ministers.

19. The Commission for Harmonization was established by the Ministry of Security on 1 July 2008 in order to harmonize relevant laws with the Law on the Directorate for Coordination of Police Bodies and Agencies for Support to the Police Structure of Bosnia and Herzegovina, and the Law on Independent and Supervisory Bodies of Bosnia and Herzegovina. According to the Decision on its establishment, the Commission was tasked to finalize the harmonization process by 31 August 2008. Considering the number of laws that need to be adjusted to the provisions of the Law on the Directorate for Coordination of Police Bodies and Agencies for Support to the Police Structure of Bosnia and Herzegovina and the Law on Independent and Supervisory Bodies of Bosnia and Herzegovina, the Commission could not finalize the work by the given deadline. Therefore the Commission has asked to extend its mandate for another 15 days. The Minister accepted the proposal and passed the Decision on Extension of the Mandate of the Commission for Harmonization, according to which the Commission is obliged to finalize the harmonization of the relevant legislation with the newly adopted laws by 15 September 2008. The Commission completed its work and submitted the final proposals to the Minister for approval. EUPM participates in the work of the Commission and follows all related developments.

Police reform efforts

20. Besides providing support to the police restructuring process, EUPM is proactively engaged in harmonizing and developing the existing legislative framework related to police bodies.

21. At State level, the police reform laws were pivotal in prompting a review of the SIPA structure and functioning, which led to amending the SIPA Law and establishing a commission to work on streamlining the structure. EUPM is providing assistance in the institution-building of the Border Police by monitoring and advising the police in implementing the integrated border management strategy funded by the EC CARDs programme. Related to this strategy is the Law on Border Control which is in the legislative procedure. EUPM assisted SIPA and the Border

Police in enhancing relations with competent institutions drafting the Law on Salaries at the State level, which, among others, regulates the salaries of police bodies at the State level. EUPM also provided technical assistance to the Ministries of Security and Finance in harmonizing the Law on Salaries with police-related legislation. At the entity level, EUPM is steadily engaged in assisting in drafting the Law on Police Officials and the Law on Internal Affairs of the Republika Srpska, which ultimately will lead to the harmonization of these key laws related to police in both entities. In Brcko District EUPM is assisting the local authorities in drafting the Brcko District Law on Police, regulating the police structure and functioning. At the cantonal level EUPM is continuously assisting the cantonal authorities in finalizing the cantonal Law on Internal Affairs, whose process was halted due to discrepancies on key issues.

Support in the fight against organized crime

22. Supporting the local police in the fight against organized crime is a central element of the EUPM mandate. Within EUPM two main departments are tasked with increasing the capacity of law enforcement agencies in the fight against organized crime: the Anti-Organized Crime Department and SIPA. Additionally, EUPM Border Police and the regional and field advisers have designated roles in this area.

23. Support in the fight against organized crime focused on specific cases, which EUPM monitored and advised upon, as well as on institution-building aspects. The Mission undertook further steps to transition its targeted approach to local police bodies, with SIPA performing a lead function. EUPM advised on key operations and on the development of technical capabilities; essential technical capabilities were made operational during the reporting period. Relations between police and prosecutors were further developed through specific case work and through the development of investigation management and other coordination mechanisms under the auspices of the High Judicial and Prosecutorial Council. Links between the police and the penitentiary system were strengthened.

Relations between police and prosecutors

24. The EUPM Anti-Organized Crime Department-Criminal Justice Unit has monitored cases that involved a significant element of cooperation between law enforcement agencies and the Prosecutor's Office. These have ranged from cases at the appeal level to cases that are problematic and challenging to police and prosecutors.

25. During the reporting period, the EUPM Criminal Justice Unit has reinforced its capacities in the regions in order to further strengthen the relationship between police and prosecutors. It is widely recognized that the relationship between these two agencies is crucial.

26. The Criminal Justice Unit continues to host a seminar for police and prosecutors on standardization of police investigation forms. Police and prosecutorial representatives from Bosnia and Herzegovina established proposals for standardized versions of a total of more than 20 investigative forms, including reports on criminal offences, minutes on searches and other investigative measures, as well as records on suspect and witness examinations. It is anticipated that this

will improve the effectiveness of criminal investigations throughout the country and contribute to enhanced cooperation between the different jurisdiction levels.

27. In April the High Judicial and Prosecutorial Council began the process of implementation of its project on cooperation between police and prosecutors by initiating the signing of a memorandum of understanding. On 9 April, the Agreement on Cooperation to implement the High Judicial and Prosecutorial Council project "Establishment of enhanced mechanisms of cooperation between the police and prosecutors' offices" was signed by the High Judicial and Prosecutorial Council President, the Bosnia and Herzegovina Ministry of Justice, the Bosnia and Herzegovina Ministry of Security, the Federation of Bosnia and Herzegovina Ministry of the Interior and Republika Srpska Ministry of the Interior representatives.

28. The High Judicial and Prosecutorial Council project implementation process follows up previous EUPM activities in the area of cooperation between police and prosecutors. The project benefits from the EUPM achievements and EUPM will continue to actively support the project and its implementation during the second half of the year.

29. From May to July, the Mission organized specific media workshops for prosecutors, helping them to enhance their skills in communicating with the public on major and organized crime. It was agreed that the High Judicial and Prosecutorial Council, in cooperation with EUPM, would organize a fourth conference on cooperation between police and prosecutors around mid-October, in accordance with the project development.

Strengthening accountability of the police

30. The Mission carried out general and targeted inspections, including of private and police duty weapons registration and issuance of licences, registration and supervision of private security companies, and the use and deployment of donated equipment by the International Criminal Investigative Training Assistance Programme. Inspections resulted in a number of observations that are being addressed by the Mission in cooperation with the relevant police authorities and the public prosecutors, as appropriate.

31. The Missions has started a thorough review of complaints about police conduct. The review will be carried out in the coming period.